

MEMORANDUM
MONROE COUNTY PLANNING DEPARTMENT
We strive to be friendly, professional and fair

To: Planning Commission

From: Ralph Gouddy, Sr. Administrator
Planning & Environmental Resources



Date: September 5, 2006

RE: Spencer Administrative Appeal
Building Permit #061-0334

I MEETING DATE: September 13, 2006

II REQUEST:

A. Applicant/Appellant/Appellant Agent:

Appellant: Linda Spencer
Appellant Agent: Sandra Walters Consultants, Inc.
Attorney: Lee Rohe

B. Location of Property:

1. Cudjoe Key, Mile Marker 21.3
2. 21544 Overseas Highway
3. Lot 24, Sacarma Subdivision, Cudjoe Key
4. Real Estate Number: 00174890.000000

C. Precise Decision Being Appealed:

The applicant is appealing the issuance of building permit # 061-0334. The applicant contends that the permit was issued in error. The permit issued was for a repair; whereas the applicant claims that a regular building permit should have been applied for. The basis of this claim is that the two (2) pilings adjacent to the dock were replaced by four (4) pilings located in the basin. The applicant claims that the current location of the pilings blocks access to the seawall and that the location is causing substantial harm.

D. Date of Decision:

May 2, 2006

1 **E. Applicant/Appellant's Desired Solution:**

2
3 The applicant petitions the Planning Commission to revoke building permit #
4 061-0334 and that the pilings be removed.
5

6
7 **III ANALYSIS OF BASIS FOR APPEAL**

8
9 **Appellant Argument/Conclusion # 1, Attachment 2B:**

10 "The permit sketches submitted originally in 1995 for the dock on open water
11 have been changed for the applications submitted to the County and DEP (Florida
12 Department of Environmental Protection) in 2006, and indicate pilings as existing
13 that were never there and were not the subject of any earlier permitting."
14

15 **County Response to Argument # 1:**

16 The site plan 'sketch' submitted in the subject Hurricane Wilma repair permit
17 application was included for the simple purpose of indicating where the work was
18 to take place. This drawing was a component of the original permit (#95-1-666),
19 issued 5-8-1996, for construction of a pier-type dock on Lot 24 (RE #00174890)
20 only, and did not necessarily reflect the condition of the basin, which, at that time,
21 was not owned by the Tuckers (Property appraiser's records indicate purchase in
22 2004). The inclusion of the drawing in the subject application was a convenient
23 method of describing the site of the repairs, as was done in many other post-
24 Wilma applications for which previous permit materials were available.
25

26 After Hurricane Wilma, Monroe County issued 102 dock repair permits under
27 emergency repair rules, based upon available applicant supplied information, such
28 as photographs, surveys, old plans, and aerial photographs. Due to the volume of
29 applications and staff limitations, the difficulty of verifying structures that have
30 been largely destroyed or are missing entirely, and, especially, the County's
31 presumption of applicant veracity, site visits were generally not performed (nor
32 are they required for permit issuance at present). The #061-0334 application states
33 the Proposed Construction as "Repair Dock, Pilings, & Seawall", with General
34 Remarks stating "Reset Pilings on Dock, Replace Stringers & Decking Replace
35 Mooring Piles (4) in Boat Basin, Repair Seawall Voids". County Staff had no
36 reason to doubt that the submitted site plan did not reflect the pre-Wilma
37 condition of the basin, and therefore, Monroe County maintains that the subject
38 permit was issued properly on May 2, 2006, based on the submitted application
39 statements and supportive materials.
40

41
42 **Appellant Argument/Conclusion #2, Attachment 2B:**

43 "These four pilings in the boat basin are, therefore, new construction and
44 erroneously permitted as replacement."
45
46

1 **County Response to Argument #2:**

2 As stated above, Monroe County issued the subject permit properly and in good
3 faith, based upon the submitted application on May 2, 2006. When questions
4 were raised concerning the location of the pilings in the basin rather than adjacent
5 to the Lot O (RE#00175070) dock, on May 19, 2006 the Tuckers applied for and
6 subsequently received a DEP permit exemption (the installation, replacement or
7 repair of mooring pilings and dolphins associated with private docking facilities
8 do not require a DEP Environmental Resource Permit) and a U.S. Army Corps of
9 Engineers (ACE) General Permit Verification on June 15, 2006 authorizing the
10 installation of four (4) mooring pilings, which was placed in the permit file.
11
12

13 **Appellant Argument/Conclusion #3, Attachment 2B:**

14 "Mrs. Spencer, as adjacent property owner, never had opportunity to review the
15 permit applications as would have been the case if they had been submitted as
16 new construction because they were presented, erroneously, as replacement. If
17 she had seen them prior to permit issuance she would have objected then."
18

19 **County Response to Argument #3:**

20 Neither Monroe County nor the ACE notifies adjacent property owners of
21 proposed permits for as-of-right docks, mooring piles, davits, boat lifts, seawalls,
22 or rip-rap revetments. Therefore, Mrs. Spencer would not have received
23 notification for either replacement or new construction of such accessories being
24 proposed on adjacent, privately owned property..
25

26 As to Mrs. Spencer's objection to the Tucker's accessory pilings, the pilings are
27 an accessory as-of-right to the boat basin. The boat basin and bay bottom
28 (RE#00115885) is under the ownership of David and Mary Tucker, according to
29 County Appraiser records.
30
31

32 **Appellant's Desired Resolution:**

33 "Mrs. Spencer requests that Monroe County revoke this inappropriately issued
34 building permit and require the pilings, which obstruct water access to her
35 property, be removed."
36

37 **County Response to Appellant's Desired Resolution:**

38 Based on the responses stated above, Monroe County maintains that it issued
39 permit #061-334 properly and in good faith based on the submitted application
40 and materials, that the issue regarding the location of the otherwise as-of-right
41 mooring piles on the Tucker's privately owned property were subsequently
42 addressed through the DEP exemption and ACOE permit, and that revocation of
43 the subject permit would violate the Tucker's right to apply for and receive a
44 permit for as-of-right accessory mooring piles for their private boat basin.
45

1 Although no surveys were included in the appeal application, the submitted maps
2 from the Property Appraiser's office (**Appellant's Exhibit 9B**) indicate that the
3 entire basin and bay bottom is under ownership of David and Mary Tucker. The
4 adjacency of Mrs. Spencer's property line to this private basin would convey no
5 more rights of use than would be expected on an adjacent, privately owned upland
6 area of property. If, through erosion or other means, the basin has expanded into
7 Mrs. Spencer's parcel, it is unclear how large an area may be available for her
8 use. It is evident from the submitted photographs of wading children that the
9 water depth along portions of the eastern edge of the basin does not meet the
10 minimum four foot (4') depth required by the Monroe County Land Development
11 Regulations (Section 9.5-349), as well as the Year 2010 Comprehensive Plan, for
12 legal docking facilities. Staff could not locate any County permit records for
13 either the sandbag revetment or the 'Spencer Seawall' depicted in the submitted
14 photographs on Mrs. Spencer's parcel (RE#00174880), nor does the Property
15 Appraiser's record card include either a seawall or dock on the parcel (**Exhibit**
16 **A**).

17
18 The southern boundary of Mrs. Spencer's property consists of a shoreline on
19 Sacarma Bay, with riparian rights extending into Sacarma Bay, which provide
20 water access to her property. Monroe County Code Section 9.5-349 allows for
21 shoreline structures, including water access walkways and water observation
22 platforms, which would provide water access to her parcel for herself and/or the
23 occupants of her vacation rental units.

24
25
26 **RECOMMENDATION:**

27
28 The Planning and Environmental Resources Staff recommend **DENIAL** of the appeal
29 requesting revocation of building permit # 06-1-0334 and removal of the associated
30 pilings.
31

Monroe County Property Record Card (017)

Alternate Key: 1226947 Roll Year 2006
Effective Date: 9/5/2006 8:49:48 AM Run: 09/05/2006 08:50 AM

SPENCER, LINDA
1037 WESTERN AVE
BRATTLEBORO VT 05301

Parcel 00174880-000000-29-66-28 Nbhd 315
Alt Key 1226947 Mill Group 100C
Affordable Housing No PC 08
Inspect Date Next Review
Business Name
Physical Addr 21550 OVERSEAS HWY, CUDJOE KEY

Associated Names	DBA	Role
SPENCER, LINDA		Owner

Legal Description
LOT 23 SACARMA CUDJOE KEY PB2-48 OR596-75/76 OR758-1964 OR825-1202 OR826-1135 OR846-429Q/C OR896-1496Q/C OR967-2319 OR971-98/99 1046-139 OR1046-140Q/C
OR1251-1989 OR1251-1990 OR1335-1647/48MT OR1335-1649/50 OR1335-1651/52 OR1335-1653/54 OR1560-2482/83RS OR1724-1893

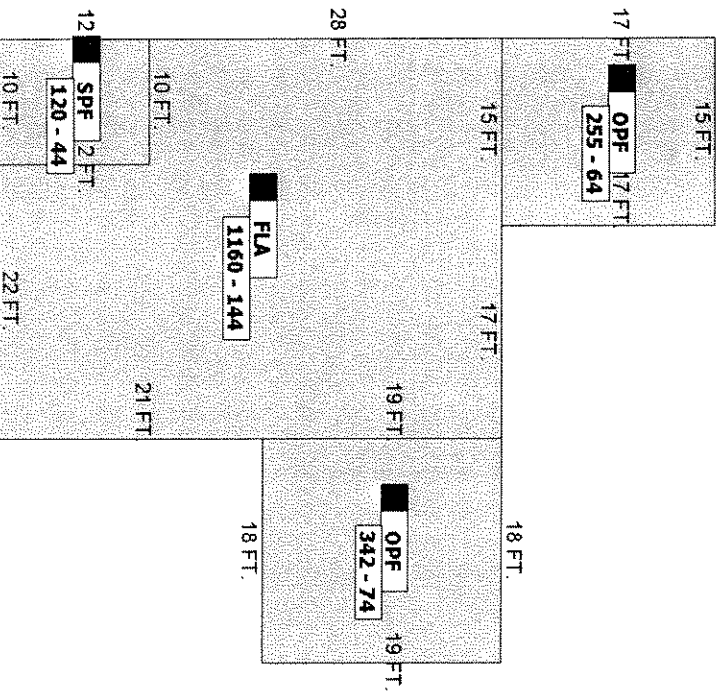
Land Data 1.															
Line ID	Use	Front	Depth	Notes	# Units	Type	Rate	Depth	Loc	Shp	Phys	Class	ROGO	Classified Value	Just Value
25116	10HW	0	0	Yes	16,350.00	SF	15.00	1.00	1.00	1.00	1.00		N	0	245,250
25117	000X	0	0	No	0.64	AC	100.00	1.00	1.00	1.00	1.00		N	0	64
Total Just Value															245,314

County Exhibit A (6 pages)
RE: 00174880.000000
Spencer Appeal

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Building Sketch 11168



Building Characteristics

Building Nbr	1	Building Type	R1	Perimeter	144	Grnd Floor Area	1,160	Special Arch	0
Effective Age	16	Condition	G	Depreciation %	0.25	Functional Obs	0.00		
Appraiser ID	091	Quality Grade	450	Year Built	1953	Economic Obs	0.00		

Inclusions: R1 includes 1 3-fixture bath and 1 kitchen.

Roof Type	1	Roof Cover	4	Heat 1	0	Heat 2	0	Heat Src 1	0	Heat Src 2	0	Foundation	4	Bedrooms	2
Extra Features:	2 Fix Bath	0	4 Fix Bath	0	6 Fix Bath	0	Extra Fix	0	Vacuum	0	Security	0	Garbage Disposal	0	
	3 Fix Bath	0	5 Fix Bath	0	7 Fix Bath	0	Dishwasher	0	Intercom	0	Fireplaces	0	Compactor	0	

Sections

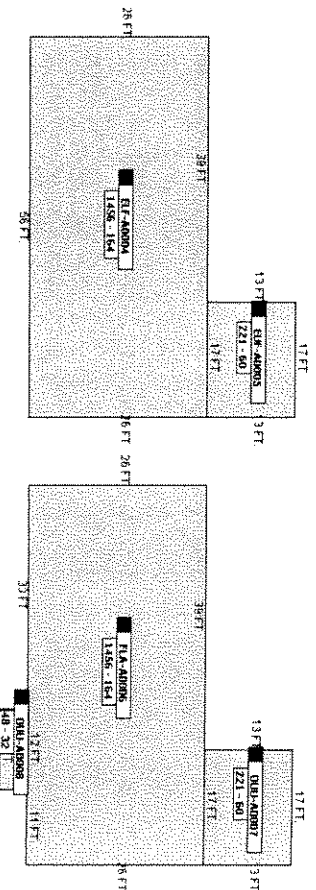
Type	Number	Exterior Wall Type	# Stories	Year Built	Attic	A/C	Basement %	Finished Bsmt %	Area	Sketch ID
FLA	1	1:WD FRAME	1	1952	N	N	0.00	0.00	1,160	000
SPF	2	1:WD FRAME	1	1952	N	N	0.00	0.00	120	001
OPF	3	1:WD FRAME	1	1952	N	N	0.00	0.00	255	002
OPF	4	1:WD FRAME	1	1952	N	N	0.00	0.00	342	003

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Building Sketch 561



Building Characteristics

Building Nbr	2	Building Type	R1	Perimeter	164	Grnd Floor Area	1,456	Special Arch	0
Effective Age	1	Condition	G	Depreciation %	0.01	Functional Obs	0.00		
Appraiser ID	091	Quality Grade	450	Year Built	2004	Economic Obs	0.00		

Inclusions: R1 includes 1 3-fixture bath and 1 kitchen.

Roof Type	2	Roof Cover	3	Heat 1	0	Heat 2	0	Heat Src 1	0	Heat Src 2	0	Foundation	6	Bedrooms	3
Extra Features:	2 Fix Bath	0	4 Fix Bath	0	6 Fix Bath	0	Extra Fix	0	Vacuum	0	Security	0	Garbage Disposal	0	
	3 Fix Bath	1	5 Fix Bath	0	7 Fix Bath	0	Dishwasher	0	Intercom	0	Fireplaces	0	Compactor	0	

Sections

Type	Number	Exterior Wall Type	# Stories	Year Built	Attic	A/C	Basement %	Finished Bsmt %	Area	Sketch ID
OUU	5	:	1	2004					48	008
OUU	4	:	1	2004					221	007

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FLA	3	11:VINYL SIDING	1	2004	Y	1,456	006
EUF	2	:	1	2004		221	005
ELF	1	:	1	2004		1,456	004

Miscellaneous Improvements

Nbr	Impr Type	# Units	Type	Length	Width	Year Built	Roll Year	Grade	Life	RCN	Depr Value
1	PT3:PATIO	80	SF	16	5	1989	1990	2	50	640	435
2	UB2:UTILITY BLDG	160	SF	16	10	1997	1998	2	50	2,480	2,083
3	PO2:LOW COST POOL	324	SF	27	12	2004	2005	5	40	12,312	12,066
4	PT3:PATIO	468	SF	78	6	2004	2005	2	50	3,744	3,669
5	FN2:FENCES	450	SF	75	6	2004	2005	2	30	1,575	1,528
6	FN2:FENCES	392	SF	98	4	2004	2005	5	30	3,920	3,802
7	PT3:PATIO	50	SF	10	5	2004	2005	2	50	400	392
Total Depreciated Value											23,975

Appraiser Notes

2004/6/21 PER T/C WITH OWNER, MRS. SPENCER AND FIELD INSPECTION, ORIGINAL DUPLEX HAS NOW BEEN CONVERTED TO SFR (DIVIDING WALL KNOCKED OUT AND 2ND KITCHEN REMOVED, CURRENTLY TWO BUILDINGS ON PARCEL, WHICH INCLUDES NEW 2004 SFR,MB
14-1 BUILDING ONE CONDEMNED,DEMO PERMIT ISSUED 11/9/05

Building Permits

Bldg	Number	Date Issued	Date Completed	Amount	Description	Notes
	95-0200	Feb 1 1995 12:00AM	Nov 1 1995 12:00AM	150		SHED
	95-0198	Feb 1 1995 12:00AM	Nov 1 1995 12:00AM	1,740		BUILDING MISCELLANEOUS
	02/0437	Feb 27 2002 12:00AM	Jan 1 2002 12:00AM	1		VACATION RENTAL
	03105580	Mar 4 2004 12:00AM	Jun 3 2004 12:00AM	150,000		CONV. DUPLEX/BUILD NEW SF
	04102241	Jun 3 2004 12:00AM	Jun 21 2004 12:00AM	32,600		12X27 POOL,474SF ,118 FEN
	05105897	Nov 9 2005 12:00AM		2,200		DEMO SFR GROUND LEVEL
	05106751	Dec 27 2005 12:00AM		150		WOODEN FENCE

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Value History

Tax Year	Val Method	Just Land	Class Land	Building	Misc	Just	Assessed Value	Exempt	Tax Value
2005F	C	81,814	0	303,396	24,532	409,742	409,742	0	409,742
2004F	C	57,289		108,991	2,643	168,923	168,923	0	168,923
2003F	C	57,289		141,688	2,706	201,683	201,683	0	201,683
2002F	C	98,164		53,028	2,768	153,960	153,960	0	153,960
2001F	C	32,764		53,028	2,830	88,622	88,622	0	88,622
2000F	C	32,764		53,028	1,696	87,488	87,488	0	87,488
1999F	C	16,414		4,225	2,080	22,719	22,719	22,719	0
1998F	C	16,414		49,778	1,834	68,026	60,437	25,000	35,437
1997F	C	16,414		45,253	1,702	63,369	57,667	25,000	32,667
1996F	C	16,414		45,253	1,818	63,485	56,969	25,000	31,969
1995F	C	16,414		30,849	1,960	49,223	49,223	25,000	24,223
1994F	C	10,692		30,849	0	41,541	41,541	0	41,541
1993F	C	10,692		28,452	0	39,144	39,144	0	39,144
1992F	C	10,692		29,417	0	40,109	40,109	0	40,109
1991F	C	10,692		29,417	0	40,109	40,109	0	40,109
1990F	C	10,692		29,417	0	40,109	40,109	0	40,109
1989F	C	10,692		29,417	0	40,109	40,109	0	40,109
1988F	C	10,628		24,096	0	34,724	34,724	0	34,724
1987F	C	10,628		23,748	0	34,376	34,376	0	34,376
1986F	C	10,628		23,878	0	34,506	34,506	0	34,506
1985F	C	7,112		23,082	0	30,194	30,194	0	30,194
1984F	C	28,275		21,602	0	49,877	49,877	0	49,877
1983F	C	28,275		21,602	0	49,877	49,877	0	49,877
1982F	C	19,763		22,029	0	41,792	41,792	0	41,792

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Roll Year 2006
Run: 09/05/2006 08:50 AM

Sales History

Book	Page	Sale Date	Instrument	Transfer Code	Q/U	Vacant	Sale Price
758	1964	4/1/1978	Conversion Code	0	Q	I	58,000
825	1202	1/1/1981	Warranty Deed	0	U	I	75,000
1046	139	3/1/1988	Warranty Deed	5	H	I	50,000
1335	1653	12/1/1994	Warranty Deed	0	T	I	135,000
1560	2482	2/8/1999	Warranty Deed	0	U	I	160,000
1724	1893	9/4/2001	Warranty Deed	0	U	I	320,000
2171	792	12/6/2005	Quit Claim Deed	0	J	I	346,500

Total Values		(Classified Value + Non-Ag Land Just Value)			
Bldg Value	295,261	Misc Value	23,975	Land Value	245,314
Total Just Value	467,947	Total Expt Value	0	Taxable Value	467,947
				Prev Tax Value	409,742
				New Const Value	0
				Previous Just	409,742